



Department of Pesticide Regulation



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Merced County Pesticide Regulatory Program 2007/2008 Performance Evaluation Report

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Performance Evaluation of the Merced County Agricultural Commissioner Pesticide Use Enforcement Program

This report provides an evaluation of Merced County Agricultural Commissioner's (CAC's) pesticide use enforcement (PUE) program for fiscal year 2007/08. The assessment evaluates the performance of goals identified in the CAC's enforcement work plan as well as the program's adherence to Department of Pesticide Regulation (DPR) standards as described in the Pesticide Use Enforcement Program Standards Compendium.

I. Summary Report of Core Program Elements

Throughout the year, the following core areas of the Merced County pesticide enforcement program were evaluated: restricted materials permitting, compliance monitoring, and enforcement response. The report findings are based on field observations, oversight inspections, review of county records, and an evaluation of pesticide use and illness investigations for the fiscal year 2007/08.

A) Restricted Materials Permitting

The restricted materials permitting program meets DPR standards and work plan goals.

B) Compliance Monitoring

The compliance monitoring program meets DPR standards and work plan goals.

C) Enforcement Response

The enforcement response program meets DPR standards and work plan goals.

Summary Statement:

No deficiencies were identified in the Merced County Agricultural Commissioner's pesticide use program and the program is currently effective.

II. Assessment of Core Program Effectiveness and Work Plan Goals

A) Restricted Materials Permitting

Permit Issuance

All Merced County Agricultural Commissioner staff who issue restricted materials permits are experienced biologists and are knowledgeable of pesticide laws and regulations. All Merced County pesticide enforcement staff possess licenses in Pesticide Regulation and Investigation and Environmental Monitoring.

All applicants requesting a restricted material permit contact the Merced County Agriculture Commissioner's office and are scheduled an appointment for the applicant to meet with staff from pesticide enforcement. Licensed pesticide enforcement staff conduct oral interviews with the person applying for a restricted material permit to determine if they are the operators of the property. If they are not operators of the property, letters of authorization are required to be in possession of the applicant before the issuance of the permit. If the applicant possesses a private applicator certificate or a qualified applicator license, the county verifies and lists the numbers

on the restricted materials permits. Pesticide enforcement staff evaluates the permit applications by reviewing and discussing with the applicant the environmental hazards near the application site, and hazards of the restricted material being applied for. Maps submitted by the permit applicant are reviewed to assure that any sensitive sites near the proposed pesticide application site are identified. Sensitive sites include but are not limited to labor camps, waterways, residential areas, roadways, and schools.

Prior to approving the use of a restricted material on a permit, the Merced CAC staff check to see if the pesticide is registered for use on that crop. The biologist issuing the restricted materials permit also reviews any permit condition that may apply to the pesticides on the permit and conditions it.

Merced County uses the Permit6 program to issue permits. The program checks the permit being issued and will not allow a field to be left incomplete. Restricted materials permits are amended in person using DPR's supplemental form or by fax if the authorized representative signs and return the form to the Merced CAC. When the permit is amended, the change is made on a supplemental page and is attached to the original permit, as well as entered into the Permit6 program.

Approximately 1,588 agricultural restricted materials permits, 19 non-agricultural restricted materials permits, and 105 operator IDs were issued in 2007/08.

DPR's evaluation determined that permits are:

- Issued only to qualified applicants;
- Signed by authorized persons;
- Permit amendments follow approved procedures.

Site Evaluation

Notices of intent (NOIs) are received by fax machine, in person, and a drop boxes located at the main office and various locations throughout the county. NOIs are reviewed by licensed pesticide enforcement staff that check them for accuracy against the permit in the computer. One biologist remains in the main office each day and is responsible to review the NOIs and assign them to the biologist assigned to the district where the application is proposed. Biologists in the field have cell phones and are often contacted to check sites in sensitive areas when NOIs are submitted. Sensitive sites include parks, residential areas, schools, hospitals, and labor camps. The biologists have the authority to accept or deny NOIs and contact the operator of the property and the pest control business when the NOI is denied.

Notices of intent for the use of restricted materials to be applied near sensitive sites are evaluated and denied if the site does not meet the conditions of the restricted materials permit or any label restrictions. The application may be denied, conditioned or be made using an alternative pesticides. When NOIs are denied, the property operator, and when appropriate, the pest control business, are notified and a denial form is completed.

Approximately 7,048 notices of intent are received annually.

The NOIs:

- Contained the necessary information;
- Identified treatment areas and sensitive areas that could be adversely impacted by the permitted uses; and
- Identified mitigation measures and included conditions that addressed known hazards.

The CAC staff adequately evaluated permits and determined if the use of feasible alternatives was required. The program reviews all NOIs in a timely manner and adequately monitors agricultural and non-agricultural permits utilizing pre-application site evaluations and use monitoring inspections.

B) Compliance Monitoring

Inspections

Staff from the Merced County Agricultural Commissioner's office attended training sessions in 2007/08 that included restricted materials permit issuance, the structural regulatory program, the new respiratory regulations, and pesticide wildlife incident response.

Merced County conducted a total of 1,061 use-monitoring inspections with an emphasis on property operators and pre-site inspections of field fumigations. During the fiscal year fifty fieldworker safety inspections were conducted. Ninety records inspections were conducted during this fiscal year with an emphasis on growers with employees. A total of forty-four structural inspections were conducted. Biologists who possess the Pesticide Regulation and Investigation and Environmental Monitoring licenses conduct inspections. Inspections are performed according to DPR policies and procedures and inspection reports are complete and comprehensive. The inspections adequately provide the information necessary to successfully prosecute violations.

Inspections performed by the CAC were found to:

- Adequately address label, law and regulatory requirements;
- Include interviews of employers and employees;
- Adequately document violations; and
- Include appropriate follow-up inspections and procedures.

Investigations

All Merced County Agricultural Commissioner pesticide enforcement staff conduct pesticide related investigations. The CAC investigates all complaints and complete their reports in a timely manner. The CAC refers and or notifies DPR and other agencies as required.

Merced County conducted twenty-two investigations during the 2007-2008 fiscal year. Investigations were thorough and complete and submitted on approved forms and in the approved format. The investigations document violations and the CAC collects evidence according to DPR standards. The investigations adequately provide the information necessary to successfully prosecute violations.

C) Enforcement Response

When non-compliances are found during inspections and investigations, Merced County pesticide enforcement staff evaluate the incident for possible enforcement action. The Deputy Agriculture Commissioner reviews the compliance history of each respondent and utilizes the enforcement guidelines to determine if enforcement action is warranted. Enforcement actions are taken when causative violations are found in incidents involving drift, pesticide related illnesses, or when required by the Enforcement Response Regulation. During the fiscal year, an Enforcement Response Coordinator was contracted to shorten the length of time between finding a violation and issuing an enforcement action. If an enforcement action is taken, the Enforcement Response Coordinator prepares the enforcement actions, which is then reviewed and approved by the County Agriculture Commissioner. The Enforcement Response Coordinator has improved the response time in initiating an enforcement action. When an enforcement action is not taken, the Deputy Agricultural Commissioner prepares a decision report to submit to DPR. All decision reports that are written include a listing of the violations found, classification, compliance history for the respondent, and an explanation of the CAC's decision not to take an enforcement action.

Merced County Agricultural Commissioner issued twenty agricultural civil penalties and one structural civil penalty in 2007/08.

The CAC's enforcement program was found to:

- Initiate the appropriate action when violations are identified;
- Sufficiently support compliance, enforcement and public protection actions.

The CAC levied fines in the appropriate category, adheres to statutory time frames and follows DPR policies when imposing civil penalties.

III. Recommended Corrective Actions

No corrective actions are currently needed.

IV. Non-Core and Desirable Activities

The Merced CAC provides outreach materials on compliance with pesticide laws and regulations and worker safety to restricted materials permittees.

The Merced CAC provides updates on laws and regulation at continuing education classes that are attended by certified private applicators and commercial certified applicators.